

Service Date: July 28, 1994

DEPARTMENT OF PUBLIC SERVICE REGULATION  
BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MONTANA

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IN THE MATTER Of the Request by	) UTILITY DIVISION
US West Communications for	)
Approval of its Custom Solutions	) DOCKET NO. 93.11.65
Filing, Tariff Transmittal 93-44.	) ORDER NO. 5771a

**FINAL ORDER**

**Background**

1. On November 16, 1993 US West Communications (USWC) filed proposed tariffs with the Montana Public Service Commission (Commission) for the introduction of Custom Solutions (Tariff Transmittal 93-44) . This filing was originally Nondocket No. N-93-113, and later docketed as 93.11.65.

2. On January 10, 1994, the Commission granted interim approval to USWC's Custom Solutions filing. See Order No. 5771. Due to the price increases in the filing and the nature of the Custom Solutions discount structure, the Commission issued a Notice of Opportunity to File Comments, Request Hearing, and/or Intervene on February 2, 1994.

3. The Notice invited interested parties to comment on various concerns regarding the Custom Solutions filing including potential rate impacts, unjust discrimination, the packaging of detariffed services with monopoly services, and the basic fairness of the Custom Solutions pricing structure and whether or not that structure violates Federal and/or Montana anti-trust laws.

**Summary of Comments**

4. No requests for a hearing were received. However, comments were received from three parties: AT&T, Telecommunications Resellers Association, and Byron L. Jenison. AT&T stated that to foster Local exchange competition, it is critical that USWC unbundle its service offerings and price each unbundled element above its total service long run incremental cost

(TSLRIC) . AT&T does not object to Custom Solutions as long as (1) the piece parts of the service are available on an individual basis, (2) the piece parts are priced above their TSLRIC, and (3) the bundled service offered by USWC is also priced above its (combined) TSLRIC. .

5. The Telecommunications Resellers Association (TRA) stated that, although it takes no issue with USWC's Custom Solutions filing, it is concerned about USWC's desire to combine or bundle "presumably competitive" detariffed services with monopoly services. TRA cited proposals before Congress which would allow USWC to enter fully competitive lines of business such as cable and interLATA long distance. TRA believes that Commission approval of bundling monopoly and competitive services could create a precedence for potential anti-competitive behavior by USWC in the future.

6. According to TRA, its specific concern with Commission approval of Custom Solutions is that 'while today it might constitute a simple combination of emergingly competitive and monopoly local services, someday it may become the bundling of competitive interLATA toll services and basic local services. page 2 of TRA's comments. TRA supports the application in this proceeding of the Commission's decision in Docket No.

88.1.2<sup>1</sup>

7. TRA suggested that if Custom Solutions is approved, the Commission should limit its authorization of the proposed combination of services to this filing. According to TRA, this would avoid implicitly authorizing USWC to combine fully competitive and monopoly services in the advent of its entry into competitive lines of business.

8. Mr. Jenison, who is physically disabled, commented that Call Forwarding and 3-Way Calling have been extremely adaptive in dealing with his disability. He stated that implementation of Custom Solutions would place him in a precarious situation.

#### Commission Responses to Comments

9. The Commission appreciates the comments that were filed and responds to the comments in this section. The Commission agrees with AT&T's concern that the piece parts of the Custom Solutions services be available on a stand alone basis (which they are) and acknowledges AT&T's concerns that prices exceed USWC's costs. Although the Commission has not conducted a detailed cost analysis of the services included in USWC's Custom Solutions

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<sup>1</sup> In Docket No. 88.1.2, the Commission expressly prohibited USWC from bundling fully regulated and detariffed services as detariffed packages. See FOF 51 of Order No. 5354e.

filing, according to USWC's cost summary, its Custom Solutions services are priced above their costs. It AT&T is concerned that USWC's costing methods are flawed, the company could request that the Commission embark on a new cost of service docket *for* USWC. See Order No. 5535g. FOE No. 153 of Docket 90.12 .86.

10. Like TRA, the Commission also is concerned about whether or not under Custom Solutions USWC implicitly offers 'detariffed packages' that combine monopoly services (Tier II services) with detariffed services (Call Forwarding, 3-Way Calling, and Speed Calling 8 & 30) . In Order No. 5354e of Docket 88.1.2, the Commission specifically prohibited USWC from offering packages containing both fully regulated services and price detariffed services as detariffed packages. In that docket, USWC was granted permission to offer packages containing both monopoly and detariffed services, but those packages remained fully tariffed.

11. The Commission believes that packages created under Custom Solutions may be of lesser concern than those referred to in Order No. 5354e, because the Custom Solutions packages have explicitly priced components, only some of which are detariffed. However, the Commission's decision in this docket only applies to USWC's Custom Solutions filing. Any future proposals by USWC to combine monopoly and competitive services will be closely examined.

12. The Commission is aware that, like Mr. Jenison, some customers will receive rate increases as a result of this filing (others will receive rate decreases) , depending on which services they subscribe to. The Commission believes that in most cases, the rate impacts will be minimal (for example, the rate for Call Forwarding/3-Way Calling increases by \$.75/month) . Custom Solutions also appears to provide customers with more flexibility to choose a package of services that fits their needs than the Telechoice, Teen-Link, and other Custom Calling packages which Custom Solutions replaces.

### Conclusion

13. The services involved in this filing are not basic essential services, but are enhanced discretionary services. Increased revenues from these services can provide a greater contribution toward USWC's revenue requirements, potentially reducing the required contribution from USWC's basic residential services. Custom Solutions also appears to offer

customers greater flexibility to purchase discounted services than is currently offered. .

14. The Commission remains concerned over the public policy implications of this filing, whether the price differences for the same services constitute unjust or unreasonable price discrimination, and potential anti-competitive effects and federal anti-trust problems. The Commission intends to monitor USWC's Custom Solutions to observe its effects over time.

### **CONCLUSIONS OF LAW**

1. The Commission is charged with supervision and regulation of public utilities. § 69-3-102, MCA.

2. USWC is a public utility providing regulated telecommunications service. § 69-3-101, MCA.

3. The Commission has provided adequate public notice and an opportunity to be heard herein, pursuant to the Montana Administrative Procedures Act. Title 2, Chapter 4, MCA.

4. The Commission may establish specific rates, tariffs or fares for the provision of regulated telecommunications service. § 69-3-807 (1), MCA.

### **DECISION**

15. On July 25, 1994. at a duly noticed Business Meeting, the Commission granted final approval to USWC's Custom Solutions filing.

Done and Dated this 25th day of July, 1994 by a vote of 5 - 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

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BOB ANDERSON, Chairman

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BOB ROWE, Vice Chairman

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NANCY MCCAFFREE, Commissioner

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DANNY OBERG, Commissioner

ATTEST:

Ann Purcell  
Acting Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See 38.2.4806, ARM.